

1 HB298
2 125760-1
3 By Representatives Baker, Davis, Faust, McMillan, Chesteen,
4 Clouse, Wren, Boothe, Williams (P), Canfield, Hammon, Fincher,
5 Long, Gaston, McClendon, Hubbard (M), Ball, Wood, McCutcheon,
6 Hill, Sanderford, Johnson (W), Moore (B), Wallace, Oden,
7 Greeson, Jones, Shiver, Johnson (K), Collins, Nordgren and
8 Mask
9 RFD: Economic Development and Tourism
10 First Read: 22-MAR-11

SYNOPSIS: Under existing law, the Alabama Development Office is headed by the Director of Development. Under existing law, the director may appoint up to five assistant directors who are not classified employees under the State Merit System. Under existing law, the director also may employ subject to the State Merit System other employees as are necessary to carry out the functions of the office.

This bill would change the name of the Alabama Development Office to the Alabama Department of Commerce and would name the head of the department the Secretary of Commerce. This bill would also provide that the assistant directors would be called assistant secretaries of commerce.

This bill would also authorize the Secretary of Commerce to hire other employees outside of the State Merit System.

A BILL
TO BE ENTITLED

1 AN ACT

2
3 To amend Sections 41-9-201, 41-9-202, 41-9-202.1,
4 41-9-203, and 41-9-204, Code of Alabama 1975, to rename the
5 Alabama Development Office and the Director of Development as
6 the Department of Commerce and the Secretary of Commerce,
7 respectively; to rename certain other positions; and to
8 authorize the Secretary of Commerce to employ certain persons
9 outside of the State Merit System.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 41-9-201, 41-9-202, 41-9-202.1,
12 41-9-203, and 41-9-204, Code of Alabama 1975, are amended to
13 read as follows:

14 "§41-9-201.

15 "(a) (1) There is hereby created the Alabama
16 ~~Development Office~~ Department of Commerce ~~within the office of~~
17 ~~the Governor and directly under his or her supervision and~~
18 ~~control.~~ The Alabama ~~Development Office~~ Department of Commerce
19 shall ~~consist of the Governor as the state Planning and~~
20 ~~Development Officer and a chief administrative officer to be~~
21 ~~designated as Director of Development~~ be headed by the
22 Secretary of Commerce, who shall be a person possessed with
23 extensive responsible experience in development of economic,
24 human, and physical resources and promotion of industrial and
25 commercial development. The ~~director~~ secretary shall be
26 appointed by the Governor and serve at his or her pleasure at
27 a salary of any reasonable amount not to exceed by forty

1 thousand dollars (\$40,000) the highest authorized salary for
2 employees of the Alabama ~~Development Office~~ Department of
3 Commerce who are subject to the Merit System law. In fixing
4 such salary, the Governor shall give due consideration of the
5 salaries of comparable positions in other states and in
6 private industry. ~~All~~ Any other employees necessary to carry
7 out the duties and functions of the Alabama ~~Development Office~~
8 ~~shall~~ Department of Commerce may be employed as unclassified
9 employees not subject to the Merit System law. In addition to
10 any other employees, there may be employed a total of five
11 assistant ~~directors~~ secretaries for the office, who shall not
12 be subject to the Merit System law and whose compensation
13 shall be determined by the ~~director~~ secretary.

14 "(2) The five additional assistant ~~directors~~
15 secretaries shall be persons experienced in industrial and
16 commercial development for at least the two years prior to
17 their employment. Compensation for the five additional
18 assistant ~~directors~~ secretaries shall not exceed the amount of
19 compensation paid for the highest classification of Merit
20 System employees employed by the Alabama Development Office on
21 June 4, 1999.

22 "(3) The ~~director~~ secretary is encouraged to ~~hire~~
23 insure that at least two ~~black employees~~ of the five ~~new~~
24 assistant ~~directors to be hired~~ secretaries are black.

25 "(b) The Governor, through the Alabama ~~Development~~
26 ~~Office~~ Department of Commerce, shall encourage comprehensive

1 and coordinated planning and programming of the affairs of
2 state government.

3 "(c) The Governor may direct any state department or
4 other agency of state government directly under his or her
5 control and supervision to furnish the Alabama ~~Development~~
6 ~~Office~~ Department of Commerce with such personnel, equipment,
7 and services as are necessary to enable it to carry out its
8 responsibilities and duties and prescribe the terms thereof,
9 including reimbursement of costs thereof.

10 "§41-9-202.

11 "(a) The Alabama ~~Development Office~~ Department of
12 Commerce shall be the principal staff agency of the executive
13 branch to plan with the other departments of state government
14 and with other governmental units for the comprehensive
15 development of the state's human, economic, and physical
16 resources and their relevance for programs administered by the
17 state and the governmental structure required to put such
18 programs into effect. It shall provide information,
19 assistance, and staff support by all appropriate means. The
20 Alabama ~~Development Office~~ Department of Commerce shall
21 perform all the duties and exercise all the powers and
22 authority relative to state regional and local planning and
23 industrial development heretofore vested in the ~~state Planning~~
24 ~~and Industrial Development Board~~ Alabama Development Office.
25 ~~All the functions, powers, authority and duties relative to~~
26 ~~carrying on a planning program for the promotion of the~~
27 ~~commercial and industrial development of the state and the~~

1 ~~counties and the municipalities thereof, including the~~
2 ~~preparation of a state master plan, as well as the authority~~
3 ~~to provide an assistance program to regions, counties and~~
4 ~~municipalities in the preparation of comprehensive physical~~
5 ~~plans for such regions, counties and municipalities vested by~~
6 ~~Sections 41-9-180 through 41-9-184 in the state Planning and~~
7 ~~Industrial Development Board, are confirmed, continued,~~
8 ~~transferred to and hereafter shall be vested in the Alabama~~
9 ~~Development Office.~~ All books, records, supplies, funds,
10 equipment, and personnel of the ~~state Planning and Industrial~~
11 Alabama Development board Office are also hereby transferred
12 to the ~~Alabama Development Office~~ Department of Commerce.

13 "(b) All of the powers and authority heretofore
14 vested in the Alabama ~~program development office, created by~~
15 ~~executive order of the Governor number 2, dated July 17, 1968,~~
16 ~~are confirmed, continued, transferred to and hereafter~~
17 Development Office shall be vested in the Alabama ~~Development~~
18 ~~Office~~ Department of Commerce created by this article. All
19 books, records, supplies, funds, equipment and personnel of
20 the Alabama ~~program development office heretofore created by~~
21 ~~executive order of the Governor are hereby transferred to the~~
22 ~~Alabama Development Office.~~

23 "(c) Without in any way limiting the foregoing
24 general powers and duties, the Alabama ~~development office~~
25 Department of Commerce shall have the following additional
26 powers and duties:

1 "(1) To formulate a long-range state comprehensive
2 plan, to be submitted by the Governor to the Legislature for
3 its consideration7.

4 "(2) To formulate, for approval by the Governor and
5 the Legislature, long-range plans and policies for the orderly
6 and coordinated growth of the state, including, but not
7 limited to, functional plans7.

8 "(3) To prepare special reports and make available
9 the results of the agency's research, studies1 and other
10 activities through publications, memoranda, briefings1 and
11 expert testimony7.

12 "(4) To analyze the quality and quantity of services
13 required for the continued orderly and long-range growth of
14 the state, taking into consideration the relationship of
15 activities, capabilities1 and future plans of local units of
16 government, area commissions, development districts, private
17 enterprise1 and the state and federal governments7.

18 "(5) To encourage the coordination of the planning
19 and programming activities of all state departments, agencies1
20 and institutions, local levels of government1 and other public
21 and private bodies within the state7.

22 "(6) To advise and consult with regional, county1
23 and local planning and development agencies7.

24 "(7) To work with the state budget agency and other
25 state departments, agencies1 and institutions to study and
26 review plans, programs1 and federal aid applications filed
27 with the federal government7.

1 "(8) To survey, review, and appraise the
2 accomplishments of state government in achieving its goals and
3 objectives at the direction of the Governor and in cooperation
4 with the state budget agency7.

5 "(9) To apply for and accept advances, loans,
6 grants, contributions, and any other form of assistance from
7 the federal government, the state, or other public body or
8 from any sources, public or private, for the purposes of this
9 article and to enter into and carry out contracts or
10 agreements in connection therewith and to include in any
11 contract for financial assistance with the federal government
12 such conditions imposed pursuant to federal laws as it may
13 deem reasonable and appropriate and which are not inconsistent
14 with the purposes of this article7.

15 "(10) To review and comment on all local and
16 areawide applications for federal planning assistance or to
17 delegate such authority to a regional planning and development
18 commission;~~and.~~

19 "(11) To exercise all other powers necessary and
20 proper for the discharge of its duties, including the
21 promulgation of reasonable rules and regulations.

22 "(d) The Alabama ~~Development Office~~ Department of
23 Commerce is hereby authorized to make grants from
24 appropriations to regional planning and development
25 commissions which are certified to receive such grants by the
26 Governor under the provisions of Sections 11-85-50 through
27 11-85-55.

1 "§41-9-202.1.

2 "(a) (1) The ~~Director~~ Secretary of the Alabama
3 ~~Development Office~~ Department of Commerce ~~(the "director")~~
4 shall be notified, either orally or in writing, about the
5 general parameters of a project if an entity is considering
6 locating or expanding a facility at a site within this state
7 and intends to claim any of the incentives provided by the
8 State of Alabama that are described in subdivision (2). The
9 required notification should be made as soon as the project's
10 parameters are generally known or when a site or sites have
11 been identified by an investing entity or entities or a visit
12 is made to the State of Alabama by the entity or its
13 representative. The initial required notification may be made
14 on an anonymous basis (i.e., "Project Alpha") in order to
15 protect the confidentiality of a proposed project. Upon timely
16 notifying the ~~director~~ secretary within the time frame
17 specified in this subdivision, the ~~director~~ secretary shall
18 transmit a letter to the company or its representative
19 acknowledging receipt of the required notification (the
20 "notification acknowledgment letter").

21 "(2) The required notification set forth in
22 subdivision (1) applies to (i) capital investment credits
23 pursuant to Act 95-187, as amended; (ii) site preparation
24 grants pursuant to Act 91-635, as amended; (iii) funding for
25 access roads and bridges through the Alabama Industrial Access
26 Road and Bridge Corporation pursuant to Act 85-549, as
27 amended; (iv) training or other assistance from the Alabama

1 Industrial Development Training Program where the annual
2 expenditures of cash is estimated to be in excess of one
3 million dollars (\$1,000,000); and (v) any direct or indirect
4 cash payment for a project from the State of Alabama, whether
5 in the form of an in-kind contribution of a site, building, or
6 equipment, or otherwise.

7 "(b) All information concerning a proposed project
8 which is provided to the ~~director~~ secretary and the Alabama
9 ~~Development Office~~ Department of Commerce shall be
10 confidential. The ~~director~~ secretary is authorized to enter
11 into a confidentiality agreement with a prospective entity
12 which prohibits the disclosure of the identity of the
13 prospective entity and any information obtained, whether
14 orally or in writing, about the entity's proposed project.

15 "(c) All written statements of intent to claim the
16 capital credit which may be filed with the Department of
17 Revenue at anytime prior to the date on which a qualifying
18 project is placed in service pursuant to Section 40-18-191,
19 ~~must~~ shall include the notification acknowledgment letter from
20 the ~~director~~ secretary.

21 "(d) All applications to the State Industrial
22 Development Authority for site preparation grants pursuant to
23 Act 91-635, 1991 Regular Session, as last amended by Act
24 97-645, 1997 Regular Session, ~~must~~ shall include the
25 notification acknowledgment letter from the ~~director~~
26 secretary.

1 "(e) All applications to the Industrial Access Road
2 and Bridge Corporation for funding for access roads and
3 bridges ~~must~~ shall include the notification acknowledgment
4 letter from the ~~director~~ secretary.

5 "(f) All companies seeking training or other
6 assistance from the Alabama Industrial Development Training
7 Program ~~must~~ shall file an application with the ~~Director of~~
8 ~~the Alabama Development Office~~ Secretary of the Alabama
9 Department of Commerce if the annual expenditure of cash is
10 estimated to be in excess of one million dollars (\$1,000,000).
11 The application ~~must~~ shall include the notification
12 acknowledgment letter from the ~~director~~ secretary. The
13 ~~director~~ secretary shall be responsible for reviewing,
14 coordinating, and processing each application. The ~~director~~
15 secretary shall have 30 days to process each application.

16 "(g) An application must be filed with the ~~director~~
17 secretary before any direct or indirect cash payments are
18 expended for a project from the State of Alabama, whether the
19 payment is in the form of an in-kind contribution of a site,
20 building, equipment, or otherwise. The application ~~must~~ shall
21 include the notification acknowledgment letter from the
22 ~~director~~ secretary. The ~~director~~ secretary shall be
23 responsible for reviewing, coordinating, processing, and
24 approving each application for direct or indirect cash
25 payments and shall have 30 days to approve or deny each
26 application.

27 "§41-9-203.

1 "The Governor, in carrying out his or her
2 responsibilities under this article, may establish advisory
3 committees or councils and appoint the members thereof, who
4 shall serve at his or her pleasure. Members shall serve
5 without compensation. The Governor shall designate the
6 chairmen and such other officers as he or she may deem
7 necessary for each advisory committee or council. Advisory
8 committees or councils established pursuant to this section
9 shall meet at the call of their chairmen or of the ~~director~~
10 secretary of development.

11 "§41-9-204.

12 "All appropriations heretofore or hereafter made to
13 the Industrial Development Board, the Planning and Industrial
14 Development Board (community planning), ~~and~~ the Alabama
15 Program Development Office, and the Alabama Development Office
16 heretofore established by executive order of the Governor are
17 hereby consolidated and transferred to the Alabama ~~Development~~
18 ~~Office~~ Department of Commerce."

19 Section 2. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.